MONUMENT
WILLS & ESTATE PLANNING

The Protection Specialist

LASTING POWERS OF ATTORNEY

It is estimated up to 2 million people in England may lack the mental capacity to make a specific decision at the specific time required. With an ageing population the numbers continue to increase.

If you haven't appointed a power of Attorney specifying who can look after your affairs and you lose mental capacity then, the Court of Protection and Social Services will become involved, this involvement is costly, unpleasant and timely.

Lasting Powers of Attorney are the only legal documents that enable you to appoint a person or people of your choice to look after your affairs. There are two documents.

Lasting Power of Attorney Property and Financial Affairs
Lasting Power of Attorney Health and Welfare

Who would you prefer to make the following decisions?

- Where you live and who can visit you
- The type of care you receive
- Giving or refusing consent to health care and medical treatment
- Giving or refusing consent to Life-sustaining treatment
- What you eat, what you wear and your daily routine
- Maintaining or selling your property
- Your financial affairs and how your money is spent
- Running your bank and savings accounts
- Making or selling investments
- Input into your care and treatment towards the end of your life.

It is important to understand that your closest **relatives are not automatically entitled** to make the decisions listed for you without having Lasting Powers of Attorney in place. **So which do you prefer?** The people of your choice **or** The Court of Protection and Social Services?

Please note: Your Attorneys can only use your Lasting Power of Attorney documents once they have been registered with the Office of the Public Guardian (part of the Ministry of Justice).

Source: The National Mental Capacity Forum – Chair's annual report

General Power of Attorney

Not to be confused with a Lasting Power of Attorney, a General Power of Attorney is a more temporary measure to enable someone to look after your Property and Finances whilst **you still have mental capacity.** Typical use would be empowering someone to deal with your affairs if you were to take an extended holiday or a long stay in hospital.

This document does not need to be registered with The Office of the Public Guardian.

It does not continue in the event that you lose your mental capacity, and cannot be used for your Health and Welfare.

Living Wills (Advance Directives)

In the majority of cases when an individual is ill, they are able to talk to their doctor and mutually reach a decision about their treatment. It is a vital point of law that a mentally competent adult has to consent to medical treatment; it cannot be forced upon them.

However, there are times where an individual maybe unable to communicate their wishes to their doctor or a medical team. For example, being unconscious or they are lacking the mental capacity to be able to agree or disagree to any treatment that maybe rendered.

In these circumstances, a statement of that individual's wishes with regard to medical treatment is extremely important and is known as an 'Advance Directive' or a 'Living Will'.

The statement allows you to specify the kind of treatment you would or would not prefer if, at any time in the future, you are unable to communicate your wishes or be able to decide for yourself.

Certain requests CANNOT be made in an Advance Directive and these are;

- **Ask for anything illegal** such as euthanasia or help to commit suicide
- **Refuse the use of** measures solely designed to improve comfort, such as pain relief
- **Demand care** that the healthcare professionals and doctors consider inappropriate in the circumstances of your case
- **Refuse the offer** of food and drink by mouth
- **Refuse basic nursing care** which serves to maintain reasonable comfort such as washing, bathing and mouth care
- **Once in place a regular review** of the Advance Directive should be made. This will help the medical professional involved in your care to be clear that you have not changed your mind. The statement should be signed and dated after every review, (we would advise that the document is **reviewed every year** whilst possible).

It is advisable that a copy of the statement is kept with your medical records and your GP informed of its existence.

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